

December 13, 2000

The Salisbury Planning Board held its regular meeting on Tuesday, December 13, 2000, in the City Council Chambers of the Salisbury City Hall at 4:00 p.m. with the following being present and absent:

PRESENT: Jeff Sowers, Mark Perry, Leigh Ann Loeblein, DeeDee Wright, Sean Reid, Ken Mowery, John Daniels, Andy Storey, Elaine Stiller, Fred Dula, Jeff Smith

ABSENT: Mark Lewis

STAFF: Harold Poole, Hubert Furr, Dan Mikkelson, Janice Hartis

The meeting was called to order by Vice Chair DeeDee Wright. The minutes of November 14, 2000, were approved as published.

ZONING MAP AMENDMENTS

Z-24-00 Sylvia A. Walser, 1206 South Fulton Street

Location: 1206 South Fulton Street (west side of 1200 block of South Fulton between Wiley and Mitchell avenues)

Size: Approximately 6,400 square feet

Existing Zoning: R-8 Single Family-8 Residential

Proposed Zoning: B-1 Office Institutional

(a) Vice Chair Wright convened a courtesy hearing on Z-24-00.

Those speaking in favor of the zoning change request:

None

Those speaking in opposition to the zoning change request:

Randy Hemann, 327 Mitchell Avenue – doesn't have a big problem with the proposed use. However, there are a lot of uses in the B-1 districts that are not appropriate for this area. Retain the edge of this neighborhood.

Al Dunn, 628 Mitchell Avenue – considers this as spot zoning. If we allow this and the property is sold sometime in the future, there are other businesses which could locate there which would not be good for the neighborhood. Wishes to retain the character of the neighborhood which everyone has worked hard to get.

Diane Dillon, 219 Maupin Avenue

Dawn Isenberg, 721 Mitchell Avenue

The vice chair closed the courtesy hearing on this case.

(b) Board Discussion:

Mark Perry – This rezoning would be an intrusion into an existing neighborhood by changing the zoning for a commercial purpose which is not compatible with the neighborhood.

Jeff Sowers – This is an existing viable neighborhood. Although the use is not that intensive, allowing B-1 in that area would possibly erode the neighborhood.

Fred Dula – Thinks this is a weak case, and no one speaking in support of the rezoning further weakens what strength it did have.

Sean Reid – Asked if this would qualify as a home occupation. Zoning Administrator Hubert Furr responded that this would not qualify due to the size limitation for home occupations.

Ken Mowery moved to recommend denying the request. The motion was seconded by Jeff Smith with all members voting AYE.

Z-25-00 Siu M. Wong, 150 Mahaley Avenue

Location: 150 Mahaley Avenue (north side of Mahaley Avenue between West Innes Street and Parkview Circle)

Size: Approximately 19,300 square feet; 65-foot frontage on Mahaley Avenue with an average depth of approximately 280 feet

Existing Zoning: R-8 Single Family-8 Residential

Proposed Zoning: B-RT Business Retail Trade with GD-A General Development-A overlay

(a) Vice Chair Wright convened a courtesy hearing on Z-25-00.

Those speaking in favor of the zoning change request:

None

Those speaking in opposition to the zoning change request:

Ruth Mead, Lilly Avenue – wants to preserve her residential neighborhood. When the corner was rezoned, the neighbors were afraid this would begin rezoning requests further down Mahaley Avenue. If you start rezoning this one, it's only a matter of time until the next one.

Mitch Rinehardt, 1617 Wiltshire Road – owns several properties on Mahaley Avenue up from this proposal. Concerned with property values. This area already has traffic problems. Problems will only increase if retail establishments are allowed to develop along Mahaley Avenue.

The vice chairman closed the courtesy hearing on this case.

(b) Board Discussion:

Fred Dula – although not required, feels that the petitioner should attend the meeting to support the request.

Mary Perry – domino effect is possible if we approve this request. We need affordable housing. Lilly Avenue is affordable housing; so is Mahaley Avenue. We can't jeopardize our stock of housing in this community. Businesses have lots of opportunities to locate elsewhere. They do not need to gobble up neighborhoods.

Jeff Sowers – we need to protect the neighborhood.

Sean Reid moved to recommend denying the request. The motion was seconded by John Daniels with all members voting AYE.

Z-26-00 Salisbury City Council, 1825 Jake Alexander Blvd. West
Location: 1825 Jake Alexander Blvd. West (Associated Asphalt plant property)
[formerly Inman Asphalt]
Size: Approximately 9 acres; 300-foot frontage along Jake Alexander Blvd.
West
Existing Zoning: M-2 Heavy Industrial
Proposed Zoning: M-1 Light Industrial or B-6 General Business

(a) Vice Chair Wright convened a courtesy hearing on Z-26-00.

Those speaking in favor of the zoning change request:

Elizabeth Ruth, 1632 Wiltshire Road – this all began in 1997. Up until 1997 there were no fumes or odor. There were no problems in the neighborhood. As soon as Inman (Associated) Asphalt took over the present site, things changed. The changes the company says they have made are not good enough. The neighborhood still smells the odor and the city is still receiving complaints.

Mitch Rinehardt, 1617 Wiltshire Road – the company says they have made improvements by installing odor control equipment. It's not working. There are still incredible odors in the neighborhood. There are 71 registered complaints with the EPA. The equipment Associated has installed is only for odor control. It does not stop the organic chemicals coming from the plant. What the neighborhood is asking for is not only odor control, but safe emissions. This has impacted property values. Downzoning will stop any future expansion of the problem. Presented a 70-page report from the EPA dealing with asphalt operations.

Scott Robinson, 104 West Colonial – this is a basic case of infringement on the rights of many by one property owner. Zoning has a purpose to protect property owners' rights. It is time for a change for the greater good of the whole and for solid enforcement of any nuisance portions of the ordinance.

Katherine Osborne, East Colonial Drive – feels her health is being jeopardized

Robin Fisher, 111 West Colonial Drive – has two small children. The fumes are horrible and have not gotten better. The fumes are not just outside. They penetrate your home.

Steve Fisher, 111 West Colonial Drive – the company has created the problem. You don't get credit for making efforts to try to solve your own problem. They have created the smell. He has heard the argument that downzoning is not going to solve this problem. Downzoning will stop them from expanding. Expanding caused this problem. The asphalt operation has been there for a number of years and has caused little or no problem with the neighborhood. When Associated expanded to the size it is, the neighborhood reacted. Expansion is a part of this problem. At least stop it where it is today.

Those speaking in opposition to the zoning change request:

Glenn Ketner, Jr., representing Associated Asphalt – downzoning is not the appropriate answer. Associated operates an asphalt terminal for the storage and distribution of the product. It is not an asphalt plant. There is an asphalt plant nearby which, to the best of his knowledge, has no odor control devices. The adjacent site is where the N. C. Dept. of Transportation operated a ground water test facility for many years without telling anyone about it. That site, and not his client's site, has raised the concerns about ground water quality. Associated has

spent more than \$160,000 on methods to eliminate the odor. They have tried several different methods for controlling the odor. The system they are using now appears to be the system that will solve the problem and has been in place since mid-October of this year. The company believes it has found a way to clean the air at its site. They are presently in the process of installing a weather station at the site so that they can know on an hourly basis what is happening from the standpoint of wind, temperature, humidity in the hope that this will enable them to better understand when and why there are odors and if the odors are emanating from Associated or somewhere else. This property has a use that has been established since 1952. Associated Asphalt bought the property in 1997 based on the long-standing M-2 zoning of the property and the use which had been in existence for more than 40 years with the expectation that it would continue. To take away the vested rights in that use diminishes the value of the property. Downzoning would be fundamentally unfair and set a dangerous precedent for this board. Substantial progress has been made. There were 47 complaints registered in 1999 and only 22 complaints registered in 2000. A rezoning recommendation will not solve the problem. Requested that his December 8 letter with enclosures be made part of the record. Suggested a committee be appointed to further facilitate the exchange of information in a cooperative effort to solve the problem. There were 17 tanks with no control on the site when it was purchased by Associated Asphalt. There are now six tanks, all of which have control devices.

Approximately 25 people stood in favor of the rezoning request. Six stood in opposition.

The vice chairman closed the courtesy hearing on this case.

(b) Board Discussion:

Jeff Smith questioned the origin of the odors as to whether it's from Associated Asphalt or the plant behind Associated. He would have a hard time taking away someone's right without more study and suggested that this be sent to a committee for more study. He would have no hesitation to downzone this property if he is fairly convinced that the odors are coming from Associated Asphalt. The neighbors believe that's where the odor is coming from, but he does not have enough information to make that determination.

Sean Reid commented that changing the zoning will not stop the odor. The big issue with the neighbors is to stop the company from expanding. He agreed with Jeff Smith that we need to make sure Associated Asphalt is the problem and also feels the matter should go to committee.

Ken Mowery indicated he was not ready to vote and was leaning toward sending it to a committee. Downzoning won't get rid of the odor. We're only looking at downzoning property owned by Associated. There's nothing to keep them from buying adjacent property which is zoned M-2 and expanding on that property. The purpose of zoning is not to punish, and feels that is what the board is trying to do.

Leigh Ann Loeblein moved to send the matter to a committee. The motion was seconded by Sean Reid. Those voting in favor of the motion were John Daniels, Ken Mowery, Sean Reid,

Elaine Stiller, Jeff Smith and Leigh Ann Loeblein. Those voting in opposition were Fred Dula, Mark Perry, Andy Storey and Jeff Sowers. The motion carried.

Vice Chair Wright referred this matter to a committee composed of both Committee 3 (Storey, Mowery, Stiller, Daniels) and the Jake Alexander Boulevard Special Study Committee (Wright, Storey, Dula, Smith).

Jeff Smith moved that the Board recommend to City Council that they put a moratorium on M-2-zoned property around the Southern Railway on both sides of Jake Alexander Boulevard for 90 days or until the Board concludes this case. The motion was seconded by Sean Reid with all members voting AYE.

ZONING TEXT AMENDMENT

Staff is recommending a zoning text amendment to Section 7.01, Nonconforming use, which would allow a nonconforming industry to install cleaners and filters or other devices in an effort to enhance the health, safety or welfare of the general public. This would not allow any enlargement or extension of a nonconforming use. Should the Associated Asphalt plant be downzoned, this text amendment would allow them to continue to seek additional filters, cleaners or other devices to reduce pollutants. On a motion by Jeff Smith, seconded by Andy Storey, with all members voting AYE except John Daniels who abstained, the following zoning text amendment was favorably recommended to City Council for their consideration.

Add the following to Section 7.01(b): "Alterations may be allowed to add filters, cleaners, or other devices to enhance the health, safety, or welfare of the general public by reducing or eliminating the emission of dust, gas, smoke, noise, fumes, odors, vibration, glare, or other nuisance. This alteration shall not allow the enlargement or extension of a nonconforming use."

GROUP DEVELOPMENT

G-9-00 Merita Bread Box, 2218 Statesville Boulevard

An application has been submitted for the construction of a bread store and warehouse. The Technical Review committee recommends approval of this application. The board heard comments from Charles Jordan, representing Merita Bread; Sharon Fisher speaking for her mother Margaret Foster; and Jan Gillian speaking for her mother. Following discussion, Fred Dula moved to recommend approving the site plan. The motion was seconded by Sean Reid with all members voting AYE except Jeff Smith who abstained due to his concern that tractor trailers will be using Holly Avenue next to a neighborhood.

COMMITTEE REPORTS

(a) Sidewalks, etc. Committee – Jeff Smith gave a summary of the ten committee recommendations for amendments to the Subdivision Ordinance. Mr. Poole indicated that the Legislative Committee has also made some recommendations which were not included in the summary. Mr. Poole asked that this item be deferred until the next meeting so that he can put all the recommendations together in ordinance form.

(b) M-1 Study – Sean Reid gave a status report. The committee is studying the M-1 zoned area bounded by Towne Creek, Klumac Road, South Main Street, and the Yadkin Railroad. No recommendation is ready at this time.

(c) Site Plan Review Committee – Andy Storey gave a status report. The committee has discussed the pros and cons of increasing the number of site plan reviews for the Planning Board. At their next meeting they will review the current group development process and requirements for site plan submittal as well as the minimum square footage that triggers the site plan review process.

(d) Billboards Committee – Sean Reid gave a status report. The committee took a van tour of areas having billboards. Staff was asked to provide additional information on the cost of removing nonconforming billboards on federal-aid primary highways and to invite Charles Floyd, a billboard authority, to the next committee meeting.

GOALS FOR FY 2001-02

This item was deferred until the January meeting.

STAFF REPORT

City Council asked the Planning Board to consider making changes to Section 7.02, Off-Street Automobile Parking and Storage. This section requires that off-street automobile parking be provided on every lot for a permitted use. However, if that parking space cannot be reasonably provided on the same lot, such space shall be provided on any lot permitting automobile parking lots, provided that a substantial portion is within 500 feet of such use. The wording of the ordinance has, in some instances, allowed developers to take advantage of this provision, resulting in inadequate parking for some buildings. The City Council asked the Planning Board to consider eliminating or somehow altering the text to ensure that this provision is not misused in the future. Staff has developed five options: (1) eliminate off-site parking altogether; (2) require off-site parking not be located across a thoroughfare; (3) reduce the allowable distance for off-site parking; (4) require a minimum percentage of parking on-site; and (5) some combination of options (2), (3) and (4). After board members raised several questions, it was a consensus of the board to send this matter to a committee. Vice Chair Wright referred it to Committee 1 (Reid, Sowers, Dula, Perry).

There being no further business to come before the Board, the meeting was adjourned.

Vice Chairman

Secretary